

**Notice of Funding Availability (NOFA)
MULTIFAMILY HOUSING PROGRAM
(MHP)**

2006 FUNDING ROUND B-7

February 15, 2006

TIMETABLE FOR MHP APPLICATIONS	
NOFA Issued:	February 15, 2006
Question and Answer Session:	See Section E
Application Forms Available (on or about):	February 21, 2006
Applications Due:	April 6, 2006
Loan and Grant Committee Meeting:	June 22, 2006

State of California
Department of Housing and
Community Development

**2006 FUNDING ROUND B-7
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MULTIFAMILY HOUSING PROGRAM
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ATTACHMENTS

Q & A Registration Form

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

1800 Third Street, Suite 390
P. O. Box 952054
Sacramento, CA 94252-2054
(916) 322-1560
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**2006 FUNDING ROUND B-7
NOTICE OF FUNDING AVAILABILITY (NOFA)
MULTIFAMILY HOUSING PROGRAM
February 15, 2006
MHP General Funding: \$70 million**

PROGRAM DESCRIPTION**A. Introduction**

The California Department of Housing and Community Development (hereinafter "HCD" or "Department") is announcing the availability of approximately \$70 million in funding for the Multifamily Housing Program (MHP). The Department intends to limit the awards to the \$70 million to ensure that a sufficient amount of Proposition 46 funds remain available for a final viable NOFA, following this one. The Department reserves the rights to exceed the amount should it be necessary to meet the targeted geographical distribution. Funding for this NOFA was approved by the vote of the people of the State of California who, on November 5, 2002, approved Proposition 46 which provides bond funding for programs authorized under the Housing and Emergency Shelter Trust Fund Act of 2002 (SB 1227, the Act). The funds awarded under this NOFA will be allocated to projects that are eligible for funding under the MHP program component authorized under the Act:

MHP General funds of approximately \$70 million. These funds are available as permanent financing for affordable multifamily rental and transitional housing developments.

Applications are currently being accepted under a separate "Governor's Homeless Initiative" NOFA, released November 15, 2006, for other identified funds and administered under the MHP Program on an "over the counter" basis. The funding program component of the Governor's Homeless Initiative assists with the development of permanent supportive housing for persons with severe mental illness who are chronically homeless. (The Governor's Homeless Initiative NOFA is available on HCD's website at <http://www.hcd.ca.gov/fa/ghi>.)

The Department anticipates the release of an additional "Supportive Housing" NOFA, for MHP funds on an "over the counter" basis in March 2006 for projects that include Supportive Housing units. The MHP Supportive Housing NOFA will be available on HCD's website at <http://www.hcd.ca.gov/ca/mhp>.

APPLICATION PROCEDURES AND DEADLINE

B. Application Packaging and Submittal

Applications must be submitted on forms provided or approved by HCD. Application forms must not be modified. A complete original application, plus one copy, must be received by the Department no later than 5:00 P.M. on Thursday, April 6, 2006. No facsimiles, late applications, incomplete applications, or application revisions will be accepted. Applications must meet all eligibility requirements upon submission. Applications having material internal inconsistencies will not be rated and ranked. HCD expects to issue awards to successful applicants in June, 2006.

Application forms will be available on or about February 21, 2006. To receive an application package, please visit HCD's website after this date, or contact MHP Program Staff at (916) 323-3178 or multifamilyhousingsection@hcd.ca.gov. Applications must be delivered to one of the following addresses:

U.S. Mail

Multifamily Housing Program
Department of Housing and Community
Development
Division of Financial Assistance
P.O. Box 952054
Sacramento, CA 94252-2054

Private Carrier

Multifamily Housing Program
Department of Housing and Community
Development
Division of Financial Assistance
1800 Third Street, Room 390
Sacramento, CA 95814

It is the applicant's responsibility to ensure that the application is clear, complete and accurate. After the application deadline, MHP staff may request clarifying information provided that such information does not affect the competitive rating of the application. No information will be solicited or accepted if this information would result in a competitive advantage to an applicant. No applicant may appeal HCD staff's evaluation of another applicant's application.

C. Program Changes

Significant changes to the program applicable to this funding round include:

There will be an increase of \$15,000 in the maximum per restricted unit loan amount for projects located in the Southern California area to encourage Southern California applicants, with the objective of ensuring a reasonable geographical distribution of funds. For the purpose of geographic distribution, Southern California includes the counties of Kern, San Bernardino, San Luis Obispo, and all counties to the south. The maximum loan amount will remain \$10,000,000.

Changes were made in the previous funding round to the required minimum replacement reserve deposit amounts as shown in the chart below.

Type of Project	Minimum Required Initial Annual Deposit to Replacement Reserve
New Construction or Conversion	0.6% of the structure construction cost, up to \$600 per unit (or \$500 per unit if the project is receiving permanent financing from CalHFA). "Structure construction cost" does not include construction contingency, general contractor profit, overhead, or general requirements.
Rehabilitation	An amount determined by HCD based on a third-party physical needs assessment (PNA). At time of application, prior to completion of the PNA, HCD will base its underwriting on a preliminary estimate. This preliminary estimate is \$456 per unit.

D. Timetable for NOFA, Applications, Workshops, and Award Notification

TIMETABLE FOR MHP APPLICATIONS	
NOFA Issued:	February 15, 2006
Question and Answer Session:	See Section E
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E. Question and Answer Session

Because there have been no significant changes to the program, the Department will not conduct the workshops as they have been done in the past. The Department will conduct a Question and Answer Session with a brief overview of recent minor changes. Attendance will assist the applicant with application preparation and allow time for answering individual applicant project related questions. If you are unable to attend one of the workshops and have questions about the application process, please contact the MHP program staff.

Question and Answer Session sessions are scheduled as follows:

Date	Location	Time
March 3, 2006	Department of Housing and Community Development Conference Room 183/185, 1800 3 rd Street Sacramento	10:00 AM – 12:00 PM
March 7, 2006	Junipero Serra State Building Carmel Room, 1 st Floor 320 W. Fourth Street Los Angeles	10:00 AM – 12:00 PM

ADVANCE REGISTRATION FOR THE Q & A session is REQUESTED. Please complete attached registration form and return via email to jopee@hcd.ca.gov or fax to (916) 445-0117, attention Janet Opee at least 24 hours before the workshop.

F. Program Summary

MHP provides low-interest loans to developers of affordable housing. MHP General funds available under this NOFA may be used for multifamily rental and transitional housing projects involving new construction, rehabilitation, acquisition and rehabilitation, or conversion of nonresidential structures.

HCD expects MHP funds to be leveraged with other resources, including local government funds, the federal Continuum of Care programs, four percent low-income housing tax credits, tax-exempt bond financing and private debt financing.

Projects using nine percent tax credits are ineligible. See Section J.

Projects receiving funding from the Department's Local Housing Trust Fund Matching Grant Program are not eligible to receive funds through MHP.

G. Program Regulations and Legal Authority

MHP was established by SB 1121, Statutes of 1999 (Alarcón), which created Chapter 6.7 of Part 2 of Division 31 commencing with Section 50675, of the Health and Safety Code. Applications submitted under this NOFA shall be subject to two sets of regulations (the MHP-specific regulations and the Uniform Multifamily Regulations). The regulation text is available on the HCD website at: <http://www.hcd.ca.gov/ca/multifamilyregs.html>. Applications submitted under this NOFA are also subject to the applicable statutory requirements, including those of Proposition 46 and SB 1227 of 2002 and the requirements specified in this NOFA. .

All section references in this NOFA refer to the MHP regulations. UMR section references refer to the Uniform Multifamily regulations.

H. Eligible Project Sponsors

Sponsors and borrowing entities may be organized on a for-profit or not-for-profit basis. Any individual, public agency or private entity capable of entering into a contract is eligible to apply, provided that they, or their staff, have successfully developed at least one affordable housing project. The Department will evaluate all Sponsors, including the roles of any general partner(s) in a limited partnership, to determine if the Sponsor's roles, responsibilities, and benefits in the project development and operations are commensurate with activities normally undertaken or controlled by project developers and owners. The Sponsor will be reviewed to determine if adequate staffing levels exist to undertake and complete the project. The same criteria will be applied to evaluate sponsor experience for purpose of awarding points. Sponsors of projects where at least 70 percent of the units consist of Special Needs Population units may be exempt from the requirement for previous development experience under limited conditions per Section 7303 (d).

Sponsor entities must maintain sufficient control of the borrowing entity to ensure that the Ultimate Borrower has the resources and experience to develop, own and manage the project. Sponsors will be required to prepare a written narrative explaining how the Sponsor identified in the Project Report has full control of the Ultimate Borrower entity and development of the project. The Sponsor must expressly describe the management and control for each entity in the organizational structure of the Ultimate Borrower. The narrative must be submitted with the organizational documents for the Ultimate Borrower and must cite the organizational documents, with reference to page, paragraph or section number, that evidence the Sponsor's control of the Ultimate Borrower. The narrative and supporting documentation must be submitted at the time the Ultimate Borrower is formed and in all cases, prior to the construction loan close. Where the requisite control cannot be shown, the Sponsor will have to change its organizational structure accordingly to comply with the applicable regulations and the loan commitment.

Sponsors must have site control in the name of the Sponsor or an entity controlled by the Sponsor as defined in UMR Section 8303.

I. Eligible Uses of Funds

MHP funds will be provided as permanent financing only, and may be used to take out construction loans used to cover normal project development (capital) costs, as detailed in Section 7304. MHP funds may be used to capitalize a project operating reserve account up to the limit required under UMR Section 8308. Program funds may not be used for the cost of supportive services, although Department-approved costs of on-site supportive services coordination may be treated as a project operating cost, payable from operating income. MHP funds must be attributable to the costs of "restricted" units (MHP units and units subject to a long-term regulatory agreement with occupancy and rent restrictions similar to those of MHP) or to the costs of facilities used for childcare, after-school care, and social services that are integrally linked to the restricted units.

J. Eligible Projects

Projects must qualify as rental housing developments, as defined in UMR Section 8301, and meet the requirements of Section 7302. For example, projects must contain five or more dwelling units. MHP General funded units may be operated as permanent or transitional housing.

Projects are ineligible if construction has commenced as of the application due date per Section 7302, or if the project is already fully funded. Projects must meet the underwriting standards described in UMR Section 8310.

Projects receiving nine percent tax credits are ineligible and the Department will not hold MHP funds pending the outcome of a nine percent tax credit application. Therefore, projects which have a nine percent tax credit application pending at the time the MHP application is submitted will be disqualified from competing in this funding round. Furthermore, projects which receive a funding commitment and subsequently apply for nine percent tax credits will be deemed ineligible and the funding commitment will be immediately rescinded.

K. Projects with Extraordinarily High Development Costs

The Department is concerned about the extremely high cost of a small but significant number of projects funded in the recent past, and the extraordinary level of public subsidy required by these projects. Of particular concern are projects with total development costs in excess of \$300,000 per unit. The Department will require thorough justification for costs above that level. In this period of rapidly rising development costs, it is especially important to encourage MHP funding of otherwise qualified projects that are able to minimize costs, without sacrificing design elements that are cost effective in the long run or meet vital needs of project residents.

In light of this concern, and consistent with UMR Section 8311, the Department reserves the right to reject an application if total development cost exceeds an amount that cannot be reasonably justified, in comparison to the costs for other similar developments of modest design in the general area. Projects may be required to justify the total development cost if the cost substantially exceeds the Department's historical project costs for similar projects, with an allowance for increased construction costs.

In evaluating projects with high per unit costs, the Department will closely scrutinize the justification that costly design features were necessary to obtain local approvals or neighborhood acceptance. Similarly, the Department will be giving close scrutiny to projects with extraordinary site development costs (where they are not fully compensated for by a sharply discounted purchase price), or where the constraints of the site necessitate an especially expensive design. Although the Department appreciates that individual developers may experience great difficulty locating more appropriate sites, it has concluded that the interests of the Program are best served by avoiding excessive site- and design-related costs.

L. Maximum Loan Amounts

The maximum loan per project is \$10,000,000. The maximum loan amount per "restricted" unit is a function of unit size, location, and affordability level per Section 7307. The maximum loan per restricted unit is being increased by \$15,000 per unit for the Southern California region to encourage the equitable distribution of funds for the area. (See Item C, Program Changes above.)

M. Loan Terms and Security

Loans will have 55-year terms, and bear simple interest at the rate of three percent per year. For the first 30 years, annual interest payments will be required in the amount of

0.42 percent of the outstanding principal loan balance. The annual payment amount for the next 25 years will be set by HCD in year 30, and will be the minimum amount necessary to cover HCD's monitoring costs. Unpaid principal and accrued/deferred interest will be due at the end of the loan term.

Cash flow remaining after payment of all debt service, Operating Expenses, required reserves and allowable deferred Developer Fee and Distributions per UMR Section 8312 and 8314 shall be applied toward repayment of the MHP loan. If the terms of other public agencies' financing also require payments from remaining cash flow, the Department may agree to share the remaining cash flow with the public agencies in proportion to the respective loan amounts.

MHP loan documents will include a promissory note, deed of trust and regulatory agreement. The deed of trust and regulatory agreement may be subordinated to bond debt, and amortizing loans from institutional lenders and the federal government provided no balloon payments are due prior to the end of the MHP loan term. MHP loans may not be subordinated to local public agency loans or restrictions attached to these loans, unless the amount of the local agency loan is at least twice the amount of the Department's total assistance to the project, including both loans and grants per Section 7306 (e) and UMR Section 8315.

The MHP loan must be secured by the fee or a leasehold interest in the property acceptable to the Department. The term of a leasehold interest must be at least 90 years (65 years where the lessor is a public entity) from the date the MHP loan closes, excluding any unexercised lease extensions. If the MHP loan is secured by leasehold, the owner of the fee and the borrower must sign the Department's standard form lease rider, unless the lessor will sign the MHP deed of trust secured by the fee. See UMR Section 8316 for other leasehold requirements.

N. Rent and Occupancy Limits

MHP assisted unit rent and tenant incomes will be restricted in accordance with the rent and income limits proposed by the project sponsor in their MHP application, with rents not exceeding 30 percent of the applicable income limit. The maximum possible income and rent limits are those set by the Tax Credit Allocation Committee (TCAC), using its calculation methods: 60 percent of Area Medium Income (AMI), adjusted by household size, and 30 percent of 60 percent of AMI, adjusted by bedroom size. (These maximum limits are available on the TCAC website at <http://www.treasurer.ca.gov/ctcac/>.)

Projects will be underwritten at the rent limits for the income levels proposed in the application. The Program's 1.20 debt coverage ratio limit will be applied using the maximum rents allowable.

Assisted unit rent increases will be limited in accordance with the rules governing tax credit units and Section 7311 and 7312. Where the project receives Section 8 or other rental assistance subsidies, "rent" is defined as the tenant's contribution, rather than the contract rent level. Sponsors of this type of project will be required to continue the rental assistance as long as it is available. Projects with rental subsidies must also be feasible with 50 percent of AMI rents for units garnering income-targeting points in the event the rental assistance is terminated.

O. Developer Fees and Distribution Limitations

Developer fees mean the same as the definition of that term in the California Code of Regulations, Title 4, Section 10302 and includes Financial Consulting Costs. The Developer fees are further limited in accordance with UMR Sections 8312 and 8314 and distributions to the Sponsor out of operating income are also limited in accordance with UMR Sections 8312 and 8314. The per unit amounts used in calculating the allowable developer fee limits were adjusted in the previous funding round for inflation pursuant to UMR Section 8312.

P. Projects for Populations with Special Needs

Sponsors of Special Needs Populations projects must submit a specific, feasible plan for delivery and funding of tenant services for Department approval and will be required to meet minimum threshold criteria for experience and the provision of services. MHP funds may not be used to fund tenant services. Sponsors must also be very careful to avoid violation of laws barring housing discrimination. HCD will review proposed tenant selection criteria for potential violations of these laws. HCD may condition funding on the elimination of restrictions that it believes to be impermissible, or reject an application where it determines that compliance with applicable law is not feasible.

Fair Housing is a very complex and in many ways unsettled area of law. Sponsors are encouraged to seek professional advice if there is any doubt that their proposal may run afoul of non-discrimination and fair housing laws. A useful resource is *Between the Lines, A Question and Answer Guide on Legal Issues in Supportive Housing* published by the Corporation for Supportive Housing. This document is available online at www.csh.org or by calling the publisher at (510) 251-1910.

In evaluating tenant selection criteria for Special Needs Populations applications, HCD will first examine whether the criteria resulted from federal or state funding, as an indicator of legislative authorization. It will then review other aspects of the selection criteria, the services and facilities proposed to meet the needs of the targeted group and the proposed sources of other funding. If an applicant disagrees with HCD's determination, it may seek an alternate opinion from the California Department of Fair Employment and Housing (DFEH). HCD will defer to DFEH's opinion. Please be advised that a proposal may have substantial discrimination problems even though it targets a group specifically listed in the definition of Special Needs Populations in Section 7301.

Q. Funding Compatibility

Sponsors typically anticipate using an array of funding sources to fund the construction and permanent financing of their projects. The sponsor should determine, prior to applying for the MHP funds, that the requirements of the non-MHP funding sources are compatible with the requirements of the MHP. For example, compatibility issues have arisen with local and federal funding sources related to:

- The required terms of the MHP security when the security for the MHP loan is in a leasehold interest (UMR Section 8316);
- The MHP prohibition of senior debt that has a provision for a "balloon" payment, Often bond financing provisions include interest rate resets with potential calls prior to the full amortization term of the loan. Any interest rate resets or similar provisions governing senior debt shall be subject to the approval of the

Department and must include an interest rate cap acceptable to the Department which shall not jeopardize the feasibility of the project.

- The mandatory payment to HCD of the .42 percent debt service;
- The MHP requirement to target some of the project rents to extremely low income households that are below the federal income eligibility standard; and
- The State statutory requirement that projects financed with MHP pay no less than the State prevailing wage rate.

R. Geographic Distribution

MHP's enabling statute requires the program to "ensure a reasonable geographic distribution of funds." To prevent an extreme imbalance in funding, no less than approximately 45 percent of the total funds awarded under this NOFA will be awarded to projects in Southern California, 30 percent will be awarded to projects in Northern California, and 10 percent will be awarded to projects in rural areas.

For the purpose of geographic distribution, Southern California includes the counties of Kern, San Bernardino, San Luis Obispo, and all counties to the south. Northern California includes all other counties of the State. "Rural" is defined to be consistent with the definition used by TCAC for the tax credit program, and a list of rural areas can be found at TCAC's website, <http://www.treasurer.ca.gov/ctcac/>.

As has been noted earlier in this NOFA, MHP has fallen below its Southern California target with only 40.9 percent having been awarded to that region to date. As a stimulus, the remaining NOFA's will permit a higher per-unit loan amount for projects in the Southern California region. To ensure that a sufficient amount of Proposition 46 funds remain available for a final viable NOFA, following this one, it is the Department's intention to limit the amount of funds awarded this current round to the announced \$70 million. Therefore, applicants are advised that the tie-breaker noted in Section U may be utilized in the event there are applications in excess of the announced amount.

S. Prevailing Wage Requirements

Pursuant to Health & Safety Code Section 50675.4(c)(2), projects receiving assistance under this NOFA are subject to State prevailing wage law, as set forth in Labor Code Section 1720 et seq.

T. Important Legal Matters

HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, HCD will notify all interested parties.

Article XXXIV of the California Constitution requires advance voter approval of certain publicly funded and regulated low-income housing projects. Projects funded by MHP must either have Article XXXIV approval or be exempt from the need for this approval.

All applications are subject to the considerations discussed in Section P regarding compliance with laws barring housing discrimination.

U. Application Point Scoring

The criteria that will be used to competitively score projects are described in Section 7320, and summarized below. In assessing whether a project is “at risk,” MHP will use the same standards as TCAC (See TCAC’s regulations, Section 10325(g)(5), available on their website as identified above).

Criterion	Max. Points	Notes
Extent Project Serves the Lowest Income Levels	35	The income levels referenced in the regulations are posted on the Department website.
Extent the Project Addresses the Most Serious Local Housing Needs	15	If a market study is submitted, it must be performed by a qualified third party in accordance with the Department’s application of TCAC Market Study Guidelines, as specified in the MHP Application form.
Development and Ownership Experience of the Sponsor	20	Sponsors using alternative scoring methods in this category are advised to communicate with the Department in order to receive technical assistance.
Percentage of Units for Families or Special Needs Populations and “At-Risk” Rental Housing Developments	35	“At-risk” projects receive full points in this category.
Leverage of Other Funds	20	Sponsors of projects containing commercial space are advised to communicate with the Department in order to receive technical assistance.
Project Readiness	15	Projects must have all construction financing and all soft financing committed (exceptions are noted in MHP Regulation Sections 7320(b)(6)(A)1-6 in order to receive full points in this category.
Adaptive Reuse/Infill/Proximity to Amenities	10	Projects demonstrating compliance with the conditions of any subcategory will receive full points in this category.
Total	150	

Projects must receive a minimum point score of 125, as determined by HCD staff, in order to be considered for a funding award.

Tiebreaker: In the event of tied point scores, the Department shall rank tied applications based on the lowest weighted average affordability of Restricted Units per Section 7320.

V. Disclosure of Application

Information provided in this application will become a public record available for review by the public pursuant to the Public Records Act. As such, any materials provided will

be disclosable to any person making a public records request. As such, we caution you to use discretion in providing us with information that is not specifically requested, including but not limited to, bank account numbers, personal phone numbers and home addresses. By providing this information to the Department, the sponsor is waiving any claim of confidentiality and consents to the disclosure of all submitted material upon request.

Do not hesitate to contact the Department if you should have any questions regarding the NOFA, the application, the application process, or necessary documents at any time during the application preparation period.

Questions should be directed to the MHP program staff at (916) 323-3178. Thank you for your interest in the Multifamily Housing Program.

Sincerely,

Richard L. Friedman
Acting Deputy Director

Attachments

Attachment 1

Multifamily Housing Program Question and Answer Session

Round B-7, 2006 Registration Form

The Multifamily Housing Program (MHP) Q & A is designed to provide training on recent changes to the MHP application and technical assistance for applicants. If you plan to attend, please complete and submit this single page (no cover sheet needed) to the MHP program staff.

- Please RSVP at least 24 hours before the workshop date by filling out this document and submitting it to klosoya@hcd.ca.gov or FAX (916) 445-0117.
- Refer registration questions and forms to: MHP Staff at (916) 323-3178.

Name of Attendee(s):	
Organization's Name:	
Address:	
City, Zip Code:	
Email:	
Phone Number:	
Fax:	

Indicate which of the following session you plan to attend:

<input type="checkbox"/> March 3, 2006 Sacramento 10:00.m. – 12:00 p.m. HCD Headquarters Conference Rooms 183/185, 1st Floor 1800 Third Street	<input type="checkbox"/> March 7, 2006 Los Angeles 10:00 a.m. – 12:00 p.m. Junepero Serra State Building Carmel Room—First Floor 320 W. Fourth Street